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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SAN FERNANDO VALLEY DIVISION

12 In re Case No. 1:24-bk-11323-VK
13 Irwin Naturals *et al.*, Chapter 11
14 Debtors and Debtors Jointly Administered With:
in Possession.
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16 Case No. 1:24-bk-11324-VK
17 Case No. 1:24-bk-11325-VK
18 Case No. 1:24-bk-11326-VK

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- Affects Irwin Naturals
- Affects Irwin Naturals Inc.
- Affects 5310 Holdings, LLC
- Affects DAI US HoldCo Inc.
- Affects All Debtors

**DEBTORS' NOTICE OF AND MOTION
FOR ENTRY OF AN ORDER (A)
APPROVING PRELIMINARY BIDDING
PROCEDURES IN CONNECTION WITH
SALE OF THE DEBTORS' ASSETS, (B)
SCHEDULING HEARING TO CONSIDER
THE SALE, AND (C) APPROVING FORM
AND MANNER OF NOTICE THEREOF;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

[*Declarations of Klee Irwin, Wayne H. Platt and
Vincent Willis Filed Concurrently Herewith*]

Hearing:

Date: March 21, 2025
Time: 10:00 a.m.
Place: Courtroom 301
United States Bankruptcy Court
21041 Burbank Blvd.
Woodland Hills, CA 91367

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1 **TO THE HONORABLE VICTORIA S. KAUFMAN, UNITED STATES BANKRUPTCY
2 JUDGE, SECURED LENDERS, THE OFFICIAL COMMITTEE OF UNSECURED
3 CREDITORS, AND THE OFFICE OF THE UNITED STATES TRUSTEE:**

4 **PLEASE TAKE NOTICE** that a hearing will be held on **March 21, 2025, at 10:00 a.m.**
5 (Pacific time) for the Court to consider the motion (the “Motion”) filed by Irwin Naturals, a Nevada
6 corporation (“Irwin Nevada”), and its related debtor entities (collectively, the “Debtors”), for
7 issuance of an order, pursuant to Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure
8 and Local Bankruptcy Rules 6004-1(b), substantially in the form attached hereto as **Exhibit 1** (the
9 “Bidding Procedures Order”) (a) establishing preliminary bidding procedures (the “Bidding
10 Procedures”) for the sale of Irwin Nevada as a going concern (and including the intellectual property
11 owned by Irwin Nevada through its wholly-owned subsidiary 5310 Holdings, LLC (“5310”))
12 including scheduling an auction, and (b) scheduling a hearing to consider such sale (the “Sale
13 Hearing”) and establishing deadlines related thereto (the “Sale Deadlines”). The Bidding Procedures
14 are set forth in the form of order annexed hereto as **Exhibit 1** and are summarized as follows:¹

- 15 1. **Deadline to Designate Stalking Horse Bidder:** June 16, 2025 shall be the deadline
16 for the Debtors to designate a stalking horse bidder or acquiror through the chapter 11
17 plan process or a sale pursuant to 11 U.S.C. § 363 (unless the Committee consents
otherwise).
- 18 2. **Qualified Bid Deadline:** July 25, 2025, at 5:00 p.m. (prevailing Pacific Time), is the
19 deadline by which all binding bids must actually be received pursuant to the Bidding
20 Procedures (the “Qualified Bid Deadline”). Bidders must deliver the necessary bid
documents required to participate in the Auction pursuant to the Bidding Procedures
to David M. Poitras at dpoitras@bg.law and Susan Seflin at sseflin@bg.law;
- 21 3. **Auction:** In the event at least one Qualified Bid (other than the Stalking Horse
22 Bidder) is received, July 28, 2025, commencing at 10:00 a.m. (prevailing Pacific
23 time), is the date and time the Auction will commence at the offices of BG Law LLP,
24 21650 Oxnard Street, Suite 500, Woodland Hills, CA 91367 (or at any such other
location or time as the Debtors may hereafter designate in writing to the Qualified
Bidders);

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¹ To the extent there is any discrepancy between this summary and the actual terms of the Bid
28 Procedures set forth in **Exhibit 1**, the actual terms of the Bid Procedures set forth in **Exhibit 1** shall
govern in all respects.

4. **Sale Motion Deadline:** The deadline for the Debtors to file and serve a motion to approve the Sale transaction (the “Sale Motion”) shall be July 9, 2025.
5. **Sale Objection Deadline:** The deadline to object to the Sale transaction shall be July 16, 2025 (the “Sale Objection Deadline”); and
6. **Sale Hearing:** July 30, 2025, at 1:30 p.m. (prevailing Pacific time), is the date and time of the Sale Hearing before this Court.
7. **Prompt Closing:** August 15, 2025, shall be the deadline for any Sale transaction to close. To implement the sale transactions within the expedited time frame required by the Debtors’ circumstances, the Motion requests that if it is granted, the waiver of any stay arising under Bankruptcy Rules 6004(h) and 6006(d), or any similar rules.

PLEASE TAKE FURTHER NOTICE that as required by LBR 6004-1(b)(2), the Debtors provide the following information regarding the marketing efforts undertaken and the anticipated additional marketing efforts to be undertaken for the sale of Irwin Nevada as a going concern (and including the intellectual property owned by Irwin Nevada through its wholly-owned subsidiary 5310 (Irwin Nevada's business and the intellectual property owned by 5310 are herein after referred to as the "Business"), as follows:

The Debtors proposed investment banker STS Capital Partners M&A Advisers Inc (“STS”) has done/intends to do the following to market the Business:

STS has developed a four-phase process to conduct an orderly sale of the Business. In the first phase, which will last at least through March 2025 (assuming STS' employment is approved), STS will prepare for market by: (i) analyzing the quality of earnings of the Business;² (ii) developing marketing materials; (iii) developing a targeted and focused outreach list that includes the type of potential strategic purchasers that are interested or may be interested in this Business; (iv) populating a pre-letter of interest data room; (v) obtaining merger and acquisition and legal guidance on the structure of the sale of the Business; and (vi) calling pre-nondisclosure agreement potential buyers.

In the second phase of the marketing process, which will begin mid-April 2025 (assuming STS' employment is approved by the Court), the Business will be in market and STS will: (i) engage with potential buyers; (ii) distribute confidential information memorandum and invitations to the

² Any potential purchaser (including FitLife) would require this analysis to be done, and the quality of earnings analysis may not be complete until May.

1 pre-letter of interest data room; (iii) conduct outreach to potential purchasers who received the
2 confidential information memorandum; (iv) invite potential purchasers to submit letters of interest;
3 and (v) prepare a due diligence data room for potential stalking horse bidders.

4 In the third phase of the marketing process, which will last through June 2025, STS will
5 assist the potential stalking horse bidders in their due diligence by: (i) releasing access to the data
6 room; (ii) corresponding with the potential stalking horse bidders regarding any questions; and (iii)
7 assist in the preparation of closing documents.

8 In the fourth phase of the marketing process, which will begin in July 2025, STS will assist
9 the Debtors and their professionals with: (i) obtaining and analyzing Qualified Bids, (ii) conducting
10 an Auction if there is at least one Qualified Bidder (in addition to the Stalking Horse), and (iii)
11 obtaining court approval of the sale of the Business and with closing of the transaction.³

12 **PLEASE TAKE FURTHER NOTICE** that as required by LBR 6004-1(b)(2), the Debtors
13 provide the following information regarding the proposed purchase agreement (the “APA”). The
14 Debtors will be filing a copy of the APA in connection with the Sale Motion. The Debtors are
15 unable to describe the terms of the proposed sale because the Debtors have not yet entered into an
16 APA with a stalking horse bidder.⁴ Once the Debtors have entered into an APA with a stalking
17 horse bidder, a copy of the APA may be obtained by contacting the Debtors counsel Susan Seflin via
18 email at sseflin@bg.law.

19 **PLEASE TAKE FURTHER NOTICE** that this Motion is based on the accompanying
20 Memorandum of Points and Authorities, the Declarations of Klee Irwin, Wayne H. Platt and Vincent
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22 ³ This truncated timeline is being proposed because of the issues that have been raised by the
23 Debtors’ secured creditor in recent months and in order to address the Court’s comments and
24 concerns. The Debtors believe that their secured creditor is sufficiently adequately protected and
25 that given the relatively short amount of time these cases have been pending and the financial
26 performance of the Debtors that longer timelines would be more beneficial to the shareholders and
27 not a detriment to creditors. The Debtors preserve the right to raise these positions at a later time.

28 ⁴ The Debtors filed this Motion prior to entering into an APA on request of the Court. As the
Debtors have not entered into an APA and are not requesting approval to use, sell, or lease property
of the estates at this time, the Debtors submit that providing notice of this Motion to all creditors and
parties that’s rights may be adversely affected by the sale of estate property as required by Rules
6004 and 2002(a)(2) of the Federal Rules of Bankruptcy Procedure is not appropriate at this time
given that the Debtors would need to serve over 450 parties (all creditors and shareholders) with this
Motion on an expedited basis.

1 Willis, the arguments of counsel as may be presented at the hearing on the Motion, and any other
2 admissible evidence brought before the Court in connection with the Motion.

3 **PLEASE TAKE FURTHER NOTICE** that if you wish to oppose the Motion, pursuant to
4 Local Bankruptcy Rule 6004-1(b)(4), you must file a written response with the Court and serve a
5 copy of it upon the Debtors' counsel at the address set forth above **no less than one (1) day prior to**
6 **the above hearing date.** If you fail to file a written response to this motion within such time period,
7 the Court may treat such failure as a waiver of your right to oppose the Motion and may grant the
8 requested relief.

9 **PLEASE TAKE FURTHER NOTICE** that the following remote hearing procedures apply:

10 1. Parties in interest (and their counsel) may connect by ZoomGov audio and video
11 using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile
12 device with an integrated camera, microphone and speaker (such as an iPhone, iPad, Android phone
13 or Android tablet).

14 2. The connection can be initiated by entering the "Meeting URL" into a web browser
15 on any of these devices, provided the device is connected to the Internet. Individuals connecting in
16 this manner will be prompted for the Meeting ID and Password shown below.

17 3. Members of the public and the press may only connect to the zoom audio feed, and
18 only by telephone. Access to the video feed by these individuals is prohibited. In the case of a trial or
19 evidentiary hearing, no audio access will be provided. However, members of the public and the press
20 may observe all proceedings in person.

21 4. Neither a Zoom nor a ZoomGov account is necessary to participate in or observe the
22 hearing, and no pre-registration is required. The use of ZoomGov is free of charge to participants.

23 5. The audio portion of the hearing will be recorded electronically by the Court and
24 constitute its official record.

25 6. All persons are strictly prohibited from making any other recording of court
26 proceedings, whether by video, audio, "screenshot," or otherwise. Violation of this prohibition may
27 result in the imposition of monetary and non-monetary sanctions.

1 7. Any party in interest or counsel that elects to appear remotely by ZoomGov bears the
2 risk of malfunction or disconnection from the hearing.

3 8. The following is the unique ZoomGov connection information for the above-
4 referenced hearing:

5 Video/audio web address: <https://cacb.zoomgov.com/j/1613070613>

6 Meeting ID: 161 307 0613

7 Password: 331800

8 Telephone conference lines: 1-669-254-5252 OR 1-646-828-7666

9 9. More information on using ZoomGov to participate in this hearing is available on the
10 Court's website at the following web address: <https://www.cacb.uscourts.gov/news/zoom-video->
11 [hearing-guide-and-training-participants](#).

12 **PLEASE TAKE FURTHER NOTICE** that while the Debtors have agreed to file this
13 Motion and schedule a sale process, the Debtors are still in the process of attempting to obtain exit
14 financing which will enable the Debtors to confirm a plan that pays all creditors in full on the same
15 timeline as the sale process set forth herein. I.e., whether it is via a sale of their Business or via exit
16 financing, all creditors will be paid in full no later than August 2025. The Debtors submit that this is
17 a reasonable timeline given (i) their solvency, (ii) their profitability, and (iii) the fact they are paying
18 their obligations as they come due, (iv) that the Debtors first choice is to remain in business as a
19 going concern and to keep all 73 of their employees employed in Los Angeles county. The Debtors
20 submit that the Court should allow the Debtors to pursue a dual track of a sale and exit financing
21 because they have acted in good faith throughout these cases, they have at all times represented that
22 creditors will be paid in full (albeit on a longer timeline initially) and because payment in full of
23 allowed claims within one year of the petition date is well within the normal and reasonable
24 timelines of chapter 11 cases in this district.

25 **WHEREFORE**, the Debtors respectfully requests that this Court enter an order,
26 substantially in the form of the Proposed Order attached hereto as **Exhibit 1**, and set the following
27 hearing date, deadlines, and Auction date:

- 1 a. **Deadline to Designate Stalking Horse Bidder:** June 16, 2025, shall be the
2 deadline for the Debtors to designate a stalking horse bidder or acquiror through
3 the chapter 11 plan process or a sale pursuant to 11 U.S.C. § 363 (unless the
4 Committee and East West Bank consent otherwise).
- 5 b. **Qualified Bid Deadline:** July 25, 2025, at 5:00 p.m. (prevailing Pacific Time), is
6 the deadline by which all binding bids must actually be received pursuant to the
7 Bidding Procedures (the “Qualified Bid Deadline”). Bidders must deliver the
8 necessary bid documents required to participate in the Auction pursuant to the
9 Bidding Procedures to David M. Poitras at dpoitras@bg.law and Susan Seflin at
10 sseflin@bg.law;
- 11 c. **Auction:** In the event at least one Qualified Bid (other than the Stalking Horse
12 Bidder) is received, July 28, 2025, commencing at 10:00 a.m. (prevailing Pacific
13 time), is the date and time the Auction will commence at the offices of BG Law
14 LLP, 21650 Oxnard Street, Suite 500, Woodland Hills, CA 91367 (or at any such
15 other location or time as the Debtors may hereafter designate in writing to the
16 Qualified Bidders);
- 17 d. **Sale Motion Deadline:** The deadline for the Debtors to file and serve a motion to
18 approve the Sale transaction shall be July 9, 2025.
- 19 e. **Sale Objection Deadline:** The deadline to object to the Sale transaction shall be
20 July 16, 2025 (the “Sale Objection Deadline”); and
- 21 f. **Sale Hearing:** July 30, 2025, at 1:30 p.m. (prevailing Pacific time), is the date
22 and time of the Sale Hearing before this Court.
- 23 g. **Prompt Closing:** August 15, 2025, shall be the deadline for any Sale transaction
24 to close. To implement the sale transactions within the expedited time frame
25 required by the Debtors’ circumstances, the Motion requests that if it is granted,
26 the waiver of any stay arising under Bankruptcy Rules 6004(h) and 6006(d), or any
27 similar rules.

DATED: March 14, 2025

BG LAW LLP

22 By: /s/ Susan K. Seflin
23 David M. Poitras
24 Susan K. Seflin
25 Jessica S. Wellington
26 Attorneys for Chapter 11 Debtors and
27 Debtors in Possession

MEMORANDUM OF POINTS AND AUTHORITIES

I. JURISDICTION AND VENUE

This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory basis for the relief requested herein is Sections 105(a) and 1121(d) of the Bankruptcy Code.

II. RELEVANT BACKGROUND

A. General Case Background.

On August 9, 2024, the Debtors filed voluntary petitions for relief under chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”). On August 14, 2024, the Court entered an order authorizing the joint administration of the Debtors’ cases [Doc. No. 11]. The Debtors continue to operate their business and manage their affairs as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

On August 31, 2024, the United States Trustee for the Central District of California appointed the Official Committee of Unsecured Creditors (the “Committee”) pursuant to section 1102(a) of the Bankruptcy Code [Doc. No. 69].

B. Description of the Debtors' Business.

Irwin Nevada is a popular dietary supplement company that was founded in 1994, the same year that Congress first enacted legislation to define and regulate dietary supplements. Irwin Nevada formulates, markets, and distributes vitamins and supplements. In addition to its Irwin Naturals® supplement brand, Irwin Nevada also has two other supplement brands, Nature's Secret® and Applied Nutrition®. Irwin Nevada's product line currently includes over 130 formulas, which are distributed in more than 100,000 retail locations, including stores like Costco, Walmart, and CVS. The Debtors' 2023 gross sales were \$102 million. Irwin Nevada's website is <https://irwinnaturals.com/>.

C. The Debtors' Management, Principals, and Affiliates of the Debtors.

At the time of the Petition Date and as of the date of the filing of this Motion, Klee Irwin was, and is, the Chief Executive Officer (“CEO”) of Irwin Nevada, Irwin Naturals, Inc. (“Irwin

1 Canada") and DAI US HoldCo Inc. ("DAI"). The managing member of 5310 Holding, LLC
2 ("5310") is Irwin Nevada. Mr. Irwin founded the Debtors' nutraceutical business in 1994. Irwin
3 Nevada, successor in interest to a prior entity, was incorporated in Nevada in January 2002.

4 Irwin Nevada is the operating entity through which the Debtors' nutraceutical business is
5 conducted. Irwin Canada is the ultimate "parent company" of the Debtors. Irwin Canada does not
6 have any employees and only transacts limited business with its subsidiaries. DAI is a wholly
7 owned subsidiary of Irwin Canada. DAI is solely a holding company that owns 100% of the Class A
8 Voting Shares of Irwin Nevada amounting to 2% of beneficial ownership of Irwin Nevada (with
9 Klee Irwin owning the other 98% personally or through his family trust in the form of 100% of the
10 Class B non-voting shares of Irwin Nevada). 5310 is a wholly owned subsidiary of Irwin Nevada.

11 **D. Circumstances Leading to the Bankruptcy Filing.**

12 For almost three decades, Irwin Nevada enjoyed financial stability and profitability from its
13 long-trusted dietary supplement brands.⁵ In or around 2020, Irwin Nevada sought to expand its
14 footprint and, as set forth more fully in the Declaration of Klee Irwin filed in support of the Debtors'
15 first day emergency motions [Doc. No. 22], the Debtors had financial difficulties arising out of that
16 attempted expansion. The Debtors ultimately filed their respective bankruptcy cases after their
17 secured lender, East West Bank ("EWB"), exerted control over their business and bank accounts. At
18 the time these cases were filed, EWB was sweeping the Debtors' bank accounts daily (which left the
19 Debtors with no liquidity other than what EWB determined was necessary to pay), and the Debtors
20 were unable to retain bankruptcy counsel pre-petition as they were unable to fund a retainer due to
21 EWB's control.

22 Additional information detailing the Debtors' operations and the circumstances leading to the
23 commencement of their chapter 11 cases case are described in greater detail in the First Day
24 Declaration, which is fully incorporated into this Motion by this reference [Doc. No. 22].

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28 ⁵ On an adjusted EBITDA basis, when accounting for extraordinary expenses.

1 **E. The Marketing Process.**

2 On February 5, 2025, the Debtors filed an application to employ STS Capital Partners M&A
3 Advisers Inc (“STS”) as investment banker with respect to a potential equity transaction [Doc. No.
4 336] (the “STS Application”). The Debtors have engaged STS to advise on the orderly sale process
5 of Irwin Nevada as a going concern (and including the intellectual property owned by Irwin Nevada
6 through its wholly-owned subsidiary 5310). Irwin Nevada’s business and the intellectual property
7 owned by 5310 are herein after referred to as the “Business”. The hearing on the STS Application is
8 also set for March 21, 2025.

9 STS has developed a four-phase process to conduct an orderly sale of the Business. In the
10 first phase, which will last at least through March 2025 (assuming STS’ employment is approved),
11 STS will prepare for market by: (i) analyzing the quality of earnings⁶ of the Business; (ii) developing
12 marketing materials; (iii) developing a targeted and focused outreach list that includes the type of
13 potential strategic purchasers that are interested or may be interested in this Business; (iv) populating
14 a pre-letter of interest data room; (v) obtaining merger and acquisition and legal guidance on the
15 structure of the sale of the Business; and (iv) calling pre-nondisclosure agreement potential buyers.

16 In the second phase of the marketing process, which will begin mid-April 2025⁷ (assuming
17 STS’ employment is approved by the Court), the Business will be in market and STS will: (i) engage
18 with potential buyers; (ii) distribute confidential information memorandum and invitations to the
19 pre-letter of interest data room; (iii) conduct outreach to potential purchasers who received the
20 confidential information memorandum; (iv) invite potential purchasers to submit letters of interest;
21 and (v) prepare a due diligence data room for potential stalking horse bidders.

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⁶ Any potential purchaser (including FitLife) would require this analysis to be done, and the quality
of earnings analysis may not be complete until May.

24 ⁷ The Debtors originally filed the STS Application on February 5, 2025, and expected to have it
25 approved by no later than March 3, 2025. However, EWB and FitLife filed objections to the STS
26 Application and it was subsequently set for hearing on March 12, 2025. EWB has withdrawn its
27 objection but FitLife has not. Therefore, STS’s retention has not been approved by the Court and
28 there are certain tasks that STS cannot and will not do unless and until its employment is approved
fulsome way with such parties until its employment is approved.

1 In the third phase of the marketing process, which will last through June 2025, STS will
2 assist the potential stalking horse bidders in their due diligence by: (i) releasing access to the data
3 room; (ii) corresponding with the potential stalking horse bidders regarding any questions; and (iii)
4 assisting in the preparation of closing documents.

5 In the fourth phase of the marketing process, which will begin in July 2025, STS will assist
6 the Debtors and their professionals with: (i) obtaining and analyzing Qualified Bids, (ii) conducting
7 an Auction if there is at least one Qualified Bidder (in addition to the Stalking Horse), and (iii)
8 obtaining court approval of the sale of the Business and with closing of the transaction.

9 **III. THE DEBTORS' PURSUIT OF PARALLEL EXIT PATHS**

10 The Debtors' bankruptcy cases have been pending for seven months. While the Debtors
11 have agreed to file this Motion and schedule a sale process, the Debtors are still in the process of
12 attempting to obtain exit financing which will enable the Debtors to confirm a plan that pays all
13 creditors in full on the same timeline as the sale process set forth herein. I.e., whether it is via a sale
14 of their Business or via exit financing, all creditors will be paid in full no later than August 2025.
15 The Debtors submit that this is a reasonable timeline given (i) their solvency, (ii) their profitability,
16 (iii) the fact they are paying their obligations as they come due, and (iv) that the Debtors' first choice
17 is to remain in business as a going concern and to keep all 73 of their employees employed in Los
18 Angeles County. The Debtors submit that the Court should allow the Debtors to pursue a dual tract
19 of a sale and exit financing because they have acted in good faith throughout these cases, they have
20 at all times represented that creditors will be paid in full (albeit on a longer timeline initially) and
21 because payment in full of all allowed claims within one year of the petition date is well within the
22 normal and reasonable timelines of chapter 11 cases in this district.

23 **IV. RELIEF REQUESTED**

24 While concurrently continuing to seek exit financing, the Debtors have filed this Motion to
25 establish a process for a sale transaction of the business with such sale transaction (through either the
26 Debtors' chapter 11 plan or a sale pursuant to 11 U.S.C. § 363) to close by no later than August 15,
27 2025. To facilitate this sales process, the Debtors seek approval of a preliminary Bidding

1 Procedures Order, substantially in the form set forth in the proposed Bidding Procedures Order
2 hereto attached as **Exhibit 1**:

- 3 a. approving preliminary bidding and auction procedures (the “Bidding Procedures”) in
4 connection with the receipt, analysis and improvement of bids for the sale of the
Business;
- 5 b. authorizing the Debtors’ inclusion in the Bidding Procedures certain customary bid
6 protections in connection with a sale transaction, including a breakup fee of 2% of the
purchase price plus up to 1% of the purchase price to account for actual third party
7 costs incurred by the Stalking Horse Bidder (the “Breakup Fee”);
- 8 c. scheduling a hearing (the “Sale Hearing”) to consider entry of an order to approve the
9 sale of the Business to take place on or before July 30, 2025 (prevailing Pacific time),
subject to the Bankruptcy Court’s availability, with any objections to the sale to be
10 filed at least fourteen (14) days before the Sale Hearing; and
- 11 d. approving the form and manner of notice of the auction (the “Auction”) for the
12 Business and the Sale Hearing, substantially in the form attached hereto as **Exhibit 2**
(the “Sale Notice”).

13 The Debtors expressly reserve the right to modify the relief requested in this Motion before
14 or at the applicable hearings, including modifying the proposed Bidding Procedures in their
15 reasonable discretion, in any manner that will best promote the goals of the bidding process and
16 maximizing the value of the Business. The Debtors also reserve the right to not move forward with
17 a sale transaction if they are able to secure exit financing sufficient to allow them to pay all allowed
18 claims in full by August 2025 (which is the same timeline as the proposed sale transaction) or if
19 there is otherwise a global consensual resolution in these cases. In connection with the above-
20 requested relief, the Debtors request that the Court establish the following dates and deadlines,
21 subject to modification:

- 22 a. **Deadline to Designate Stalking Horse Bidder:** June 16, 2025, shall be the deadline
23 for the Debtors to designate a stalking horse bidder or acquiror through the chapter 11
plan process or a sale pursuant to 11 U.S.C. § 363 (unless the Committee consents
otherwise).
- 25 b. **Qualified Bid Deadline:** July 25, 2025, at 5:00 p.m. (prevailing Pacific Time), is the
26 deadline by which all binding bids must actually be received pursuant to the Bidding
27 Procedures (the “Qualified Bid Deadline”). Bidders must deliver the necessary bid
28 documents required to participate in the Auction pursuant to the Bidding Procedures
to David M. Poitras at dpoitras@bg.law and Susan Seflin at sseflin@bg.law;

- c. **Auction:** In the event at least one Qualified Bid (other than the Stalking Horse Bidder) is received, July 28, 2025, commencing at 10:00 a.m. (prevailing Pacific time), is the date and time the Auction will commence at the offices of BG Law LLP, 21650 Oxnard Street, Suite 500, Woodland Hills, CA 91367 (or at any such other location or time as the Debtors may hereafter designate in writing to the Qualified Bidders);
- d. **Sale Motion Deadline:** The deadline for the Debtors to file and serve a motion to approve the Sale transaction shall be July 9, 2025.
- e. **Sale Objection Deadline:** The deadline to object to the Sale transaction shall be July 16, 2025 (the “Sale Objection Deadline”); and
- f. **Sale Hearing:** July 30, 2025, at 1:30 p.m. (prevailing Pacific time), is the date and time of the Sale Hearing before this Court.
- g. **Prompt Closing:** August 15, 2025, shall be the deadline for any Sale transaction to close. To implement the sale transactions within the expedited time frame required by the Debtors’ circumstances, the Motion requests that if it is granted, the waiver of any stay arising under Bankruptcy Rules 6004(h) and 6006(d), or any similar rules.

The Debtors submits that the Bidding Procedures, set forth in the accompanying proposed Bidding Procedures Order, **Exhibit 1**, provide an appropriate framework for selling the Business and will enable the Debtors to review, analyze and compare all bids received to determine which bid or bids is or are in the best interests of the Debtors’ estates. Importantly, the Bidding Procedures recognize the Debtors’ fiduciary obligations to maximize sale value, and, as such, do not impair the Debtors’ ability to consider all qualified bid proposals.

V. ARGUMENT

A. The Debtors Have Adequate Business Justifications for the Proposed Sale.

Section 363(b)(1) of the Bankruptcy Code provides that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Section 105(a) of the Bankruptcy Code provides, in relevant part, that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

The Debtors’ sale or use of property of the estate outside the ordinary course of business should be approved by the Bankruptcy Court if the Debtors can demonstrate a sound business justification for the proposed transaction. *See, e.g., Stephens Indus., Inc. v. McClung*, 789 F.2d 386,

1 390 (6th Cir. 1986); *see also Myers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996) (citing
2 *In re Schipper (Fulton State Bank v. Schipper)*, 933 F.2d 513, 515 (7th Cir. 1990)); *Comm. of Equity*
3 *Security Holders v. Lionel Corp .(In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983); *In re*
4 *Delaware & Hudson Ry. Co.*, 124 B.R. 169, 176 (D. Del. 1991) (explaining that courts have applied
5 the “sound business purpose” test to evaluate motions brought pursuant to Section 363(b) of the
6 Bankruptcy Code).

7 There is more than adequate business justification to sell the Business subject to overbid at
8 the Auction. The Debtors’ management and advisors have concluded that an asset sale, on the
9 timeline proposed herein, will attempt to preserve the substantial goodwill of the Debtors’ business
10 and avoid a liquidation sale or sales at depressed prices (though even at the timeline proposed in this
11 Motion, the sale price will likely be less than what could be obtained through a fulsome six month
12 sale process). As set forth more fully in the declarations filed in support of this Motion, a shortened
13 time period for a sale of the Business will not maximize the value of the Debtors’ estates (and will in
14 fact greatly reduce the value of the Debtors’ estates), and the Debtors have a duty to maximize value
15 to both creditors and shareholders as these are solvent estates.

16 The stalking horse bid will be subject to competing bids at the Auction, provided that there
17 are other Qualified Bids received by the Bidding Deadline, thereby enhancing the Debtors’ ability to
18 receive the highest and best value for the Business. Consequently, the fairness and reasonableness
19 of the consideration to be received by the Debtors ultimately will be demonstrated by a “market
20 check” through an auction process, which is the best means for establishing that a fair and
21 reasonable price is being paid.

22 Finally, parties in interest will receive adequate notice of the Bidding Procedures, the
23 Auction and the Sale Hearing as provided herein. Such notice is reasonably calculated to provide
24 timely and adequate notice to the Debtors’ creditors, those parties potentially interested in bidding
25 on the Business and others whose interests are potentially implicated by the proposed sale.

26 Under these circumstances, the Debtors submit that sound business reasons exist for the
27 proposed sale of the Business outside the ordinary course of business pursuant to the Bidding
28 Procedures.

1 **B. The Bid Procedures Should Be Approved.**

2 Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure govern the scope of the
3 notice to be provided in the event a debtor in possession or trustee elects to sell property of the estate
4 under Section 363. However, with respect to the procedures to be adopted in conducting a sale
5 outside the ordinary course, Rule 6004 provides only that such sale may be by private sale or public
6 auction, and requires only that the debtor in possession provide an itemized list of the property sold
7 together with the prices received upon consummation of the sale. Fed. R. Bankr. P. 6004(f).

8 Neither the Bankruptcy Code nor the Federal Rules of Bankruptcy Procedure contain specific
9 provisions with respect to the procedures to be employed by a debtor in possession in conducting a
10 public or private sale. Nonetheless, as one Court has stated, “[i]t is a well-established principle of
11 bankruptcy law that the objective of bankruptcy rules and the trustee’s duty with respect to such
12 sales is to obtain the highest price or greatest overall benefit possible for the estate.” *In re Atlanta*
13 *Packaging Products, Inc.*, 99 B.R. 124, 131 (Bankr. N.D. Ga. 1988). *See, also, Commodity Futures*
14 *Trading Com’n v. Weintraub (“Commodity”)*, 471 U.S. 343, 355-56 (1985)(“[T]he fiduciary duty of
15 the trustee runs to shareholders as well as to creditors”)(citations omitted) . Additionally, courts
16 have long recognized the need for competitive bidding at hearings on private sales; “[c]ompetitive
17 bidding yields higher offers and thus benefits the estate. Therefore, the objective is ‘to maximize
18 bidding, not restrict it.’” *Atlanta Packaging Productions, Inc.*, 99 B.R. at 131..

19 The Court here should similarly approve the proposed Bidding Procedures. The Debtors
20 believe that the proposed Bidding Procedures detailed in the attached Exhibit 1 will maximize the
21 price ultimately obtained for the Business (compared to the timelines proposed by other parties)
22 while still protecting the estates from parties who may wish to bid on the assets but who are
23 ultimately unable to consummate a purchase of the assets.

24 The Bidding Procedures serve numerous legitimate purposes. Among other things, the
25 Bidding Procedures will (1) foster competitive bidding among any serious potential purchasers, (2)
26 eliminate from consideration purchasers who would waste the Debtors’ time because they would not
27 have the financial ability to consummate a purchase of the Business, and (3) ensure that the highest
28 possible price is obtained for the Business.

Indeed, solvent debtors, such as the Debtors, owe fiduciary duties not only to their creditors and bankruptcy estates, but also to their shareholders. *See, e.g., Commodity, supra*, 471 U.S. at 355-56 (“[T]he fiduciary duty of the trustee runs to shareholders as well as to creditors If a trustee is not appointed – the debtor’s directors bear essentially the same fiduciary obligation to creditors and shareholders as would the trustee for a debtor out of possession. Indeed, the willingness of courts to leave debtors in possession ‘is premised upon an assurance that the officers and managing employees can be depended upon to carry out the fiduciary responsibilities of a trustee.’”), quoting *Wolf v. Weinstein*, 372 U.S. 633, 649-652 (1963) and citing *In re Washington Group, Inc.*, 476 F.Supp. 246, 250 (MDNC 1979), *aff’d sub nom. Johnston v. Gilbert*, 636 F.2d 1213 (CA4 1980), *cert. denied*, 452 U.S. 940 (1981). As such, the Debtors not only need to ensure that the highest and best price for the Business is obtained for creditors of the Debtors’ estates, but also for the over 200 shareholders of the Debtors.

Additionally, the proposed Breakup fee is not excessive and represents, at most, 3% of the purchase price. *See EWI, Inc.*, 208 B.R. at 888 (authorizing 3.6% break-up fee). As such, the Debtors submit that the Breakup Fee does not present a barrier to, or otherwise meaningfully discourage, participation in the Auction process, given the relatively low amount relative to the value of the Business. Also, the Breakup Fee will only be paid if a bidder other than the Stalking Horse Bidder purchases the Business at the Auction.

Moreover, the Bidding Procedures satisfy all the requirements for the approval of the Bidding Procedures pursuant to LBR 6004-1(b). First, the Notice of the Motion describes the Bidding Procedures. Second, the Notice of the Motion describes marketing efforts that have already been undertaken by STS, and the anticipated additional marketing efforts to be made by STS. Third, the Notice of the Motion explains that the Debtors will file a copy of the asset purchase agreement (the “APA”) in connection with the Sale Motion. The Debtors have not yet designated a stalking horse bidder as of the filing of this Motion, and thus are not able to describe the terms of the APA.⁸ Based on the foregoing, the Debtors submit that the proposed Bidding Procedures are reasonable and in the best interests of the estates and, therefore, should be approved.

⁸ The Debtors filed this Motion prior to entering into an APA on request of the Court.

1 **C. The Proposed Sale Timeline Should Be Approved.**

2 As set forth in the attached declarations of Wayne H. Platt (“Platt Declaration”) and Vincent
3 Willis (“Willis Declaration”), based on the valuation of the Debtors’ business on a going concern
4 enterprise basis, as well as valuation of the Debtors’ intangible assets such as intellectual property
5 and brand, and the type of potential strategic purchasers that are interested or may be interested in
6 purchasing the Business, the sale timeline proposed herein will enable the Debtors to conduct a
7 somewhat orderly sale process⁹ that will ensure the value of the assets are maximized for the benefit
8 of creditors and shareholders. Based on the updated valuation performed by Marula Capital Group
9 LLC,¹⁰ the Debtors’ valuation professional, the updated valuation of the Debtors’ business on a
10 going concern enterprise basis is approximately \$79 million and the updated valuation on the
11 Debtors’ intangible assets such as intellectual property and brand is approximately \$26 million. Platt
12 Declaration, ¶¶ 10–11. The type of potential strategic purchasers that are interested in or may be
13 interested in the Business and that have the ability and means to purchase the Business require
14 longer due diligence periods as compared to financial purchasers. Willis Declaration, ¶ 7.

15 In order to meet the proposed timeline and ensure that the Debtors have all of their efforts
16 focused on completing a sale of the Business or obtaining refinancing, which would pay all creditors
17 in full, rather than fighting a competing plan, the Debtors currently intend on seeking an extension of
18 their exclusive periods in which they may obtain acceptances of their chapter 11 plan through

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21 ⁹ As set forth in the Willis Declaration filed concurrently herewith, the sale process proposed in this
22 Motion is still on a more expedited basis than is typical given that potential strategic purchasers are
23 typically large corporations that require extensive due diligence. I.e., even under the proposed
24 timeline, it is likely that the Business will sell for less than it otherwise would in a longer timeline.

25 ¹⁰ The Debtors filed the initial *Declaration of Wayne H. Platt in Support of the Debtors’ Motion for*
26 *Authority to Use Cash Collateral* with the Court on September 19, 2024 (the “Original Platt
27 Declaration”) [Doc. No. 91]. The Original Platt Declaration valued the Debtors as of September 3,
28 2024. Subsequent to the filing of the Original Platt Declaration, the Debtors requested and obtained
 a valuation of the Debtors as of November 12, 2024. The Debtors requested the updated valuations
 to account for a change in the underlying financial information and plan projections (the numbers
 went down slightly), in connection with a contested cash collateral hearing scheduled for December
 4, 2024. Ultimately, the Debtors and East West Bank settled their disputes over the use of cash
 collateral, and accordingly, the updated valuation was not filed with the Court at that time. The Platt
 Declaration filed in support of the Motion includes this updated valuation. The updated valuation
 was provided to East West Bank in December 2024.

1 August 15, 2025. The Committee has already agreed to the extension and believes that it is in the
2 best interests of the Debtors' estates. *See Doc. 384.*

3 Additionally, many bankruptcy courts in this district and other districts routinely extend a
4 chapter 11 debtor's exclusive periods where the cases are larger than most cases in this district, the
5 Debtors are moving the cases forward in good faith towards confirmation of a chapter 11 plan that
6 will pay all creditors in full, and the Debtors are paying their bills as they become due. *See e.g., In*
7 *re Henry Mayo Newhall Mem'l Hosp.*, 282 B.R. 444, 446 (B.A.P. 9th Cir. 2002) (affirming
8 bankruptcy court's extension of the debtor's exclusive periods for 7 months and 9 months after the
9 order for relief was entered); *In re Adelphia Commc'n Corp.*, 352 B.R. 578, 585 (Bankr. S.D.N.Y.
10 2006), *clarified on denial of reconsideration*, No. 02-41729, 2006 WL 2927222 (Bankr. S.D.N.Y.
11 Oct. 10, 2006) (failing to terminate exclusivity after the cases had been pending for four years); *In re*
12 *Dow Corning Corp.*, 208 B.R. 661, 670 (Bankr. E.D. Mich. 1997) (declining to terminate exclusivity
13 two years after the case was filed); *In re Pub. Serv. Co. of New Hampshire*, 99 B.R. 155, 177 (Bankr.
14 D.N.H. 1989) (terminating exclusivity after twelve months); *compare with In re New Meatco*
15 *Provisions, LLC* ("New Meatco"), 2014 WL 917335, at *1 (Bankr. C.D. Cal. Mar. 10, 2014)
16 (terminating the debtor's exclusive period ten months into the case **where the debtor was a non-**
17 **operating entity, there was no business to reorganize, and it was a liquidation case that was**
18 **neither large nor complex**(emphasis added) and *In re Situation Management Systems, Inc.*
19 ("Situation Management"), 252 B.R. 859, 866-67 (Bankr. D. Mass. 2000)(finding cause to terminate
20 the debtor's exclusive period **two and a half years after the petition date** where a potential
21 acquiror sought to offer a competing plan)(emphasis added). The Debtors submit that both cases
22 terminating exclusivity (and cited by FitLife in support of their motion to terminate exclusivity) can
23 easily be distinguished from the Debtors' cases in that (a) the New Meatco case dealt with a non-
24 operating entity that only had to distribute funds under its plan and exclusivity was terminated 10
25 months into the case (and not 7 months as represented by FitLife's counsel at the March 5th hearing
26 in these cases), and (b) the Situation Management case dealt with a debtor that had not yet confirmed
27 a plan two and half years after the petition date.

28

In proposing the sale timeline set forth herein, the Debtors are sensitive to the fact that, on the one hand, STS needs sufficient time to market the Business and for potential strategic purchasers to conduct sufficient due diligence, and, on the other hand, the need to conclude these chapter 11 cases as quickly as possible while providing the maximum return to creditors and shareholders. The Debtors believe that the proposed sale timeline strikes the appropriate balance between these competing interests and will ensure that all creditors are paid in full through the sale of the Business or through a chapter 11 plan by no later than August 2025 (or a mere 12 months after these cases were filed). As such, the Debtors submit that the timeline proposed herein is the minimum amount of time needed in order to run a fulsome, fair sale process that adequately allows the Debtors a reasonable opportunity to realize the enterprise value of the Business but also gives the Debtors sufficient time to secure exit financing that will allow them to pay all allowed claims in full and to continue their business as a going concern. Willis Declaration, ¶ 2.

D. Waiver Of Bankruptcy Rules Regarding Stay Of Order.

To implement the foregoing successfully, the Debtors seek a waiver of the stay of any order granting the relief requested herein pursuant to Bankruptcy Rules 6004(h), 6006(d) or otherwise.

VI. CONCLUSION

Based on the foregoing, the Debtors respectfully request that this Court enter an order, substantially in the form of the Proposed Order attached hereto as **Exhibit 1**, and set the following deadlines, Auction date and Sale Hearing date:

- a. **Deadline to Designate Stalking Horse Bidder:** June 16, 2025, shall be the deadline for the Debtors to designate a stalking horse bidder or acquiror through the chapter 11 plan process or a sale pursuant to 11 U.S.C. § 363 (unless the Committee consents otherwise).
- b. **Qualified Bid Deadline:** July 25, 2025, at 5:00 p.m. (prevailing Pacific Time), is the deadline by which all binding bids must actually be received pursuant to the Bidding Procedures (the “Qualified Bid Deadline”). Bidders must deliver the necessary bid documents required to participate in the Auction pursuant to the Bidding Procedures to David M. Poitras at dpoitras@bg.law and Susan Seeflin at sseeflin@bg.law;
- c. **Auction:** In the event at least one Qualified Bid (other than the Stalking Horse Bidder) is received, July 28, 2025, commencing at 10:00 a.m. (prevailing Pacific time), is the date and time the Auction will commence at the offices of

1 BG Law LLP, 21650 Oxnard Street, Suite 500, Woodland Hills, CA 91367
2 (or at any such other location or time as the Debtors may hereafter designate
3 in writing to the Qualified Bidders);

4

- 5 d. **Sale Motion Deadline:** The deadline for the Debtors to file and serve a
6 motion to approve the Sale transaction shall be July 9, 2025.
- 7 e. **Sale Objection Deadline:** The deadline to object to the Sale transaction shall
8 be July 16, 2025 (the “Sale Objection Deadline”); and
- 9 f. **Sale Hearing:** July 30, 2025, at 1:30 p.m. (prevailing Pacific time), is the
10 date and time of the Sale Hearing before this Court.
- 11 g. **Prompt Closing:** August 15, 2025, shall be the deadline for any Sale
12 transaction to close. To implement the sale transactions within the expedited
13 time frame required by the Debtors’ circumstances, the Motion requests that if
14 it is granted, the waiver of any stay arising under Bankruptcy Rules 6004(h) and
15 6006(d), or any similar rules.

16 DATED: March 14, 2025

BG LAW LLP

17
18 By: /s/ Susan K. Seflin
19 David M. Poitras
20 Susan K. Seflin
21 Jessica S. Wellington
22 Attorneys for Chapter 11 Debtors and
23 Debtors in Possession

EXHIBIT “1”

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2 SUSAN K. SEFLIN - Bar No. 213865
3 ASHLEY M. TEESDALE - Bar No. 289919
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14 Attorneys for Chapter 11 Debtors and
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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SAN FERNANDO VALLEY DIVISION

21 In re

22 Irwin Naturals *et al.*,

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Debtors and Debtors
in Possession.

Case No. 1:24-bk-11323-VK

Chapter 11

Jointly Administered With:

Case No. 1:24-bk-11324-VK
Case No. 1:24-bk-11325-VK
Case No. 1:24-bk-11326-VK

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1 On March 21, 2025, at 10:00 a.m., a hearing (the “Hearing”) was held before the Honorable
2 Victoria S. Kaufman, United States Bankruptcy Judge for the Central District of California, for the
3 Court to consider the *Motion for Entry of An Order (A) Approving Preliminary Bidding Procedures*
4 *in Connection With Sale of the Debtors’ Assets, (B) Scheduling Hearing to Consider the Sale, And*
5 *(C) Approving Form and Manner of Notice Thereof* [Doc. No. ____] (the “Motion”) filed by Irwin
6 Naturals, a Nevada corporation (“Irwin Nevada”), and its related debtor entities (collectively,
7 the “Debtors”).¹ Appearances were made as noted on the record of the Hearing.

8 The Court having reviewed the Motion; and it appearing that the Court has jurisdiction over
9 this matter; and it appearing that the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b); and
10 it appearing that venue of this proceeding and the Motion in this District is proper pursuant to 28
11 U.S.C. §§ 1408 and 1409; and having found that notice of the Motion was adequate and appropriate
12 under the circumstances; and the Court being satisfied, based on the representations made in the
13 Motion and at the hearing on the Motion, that the legal and factual bases set forth in the Motion
14 establish just cause for the relief granted herein; and any objections to the relief requested in the
15 Motion having been withdrawn or overruled on the merits; having set forth the Court’s findings of
16 facts and conclusions of law on the record of the Hearing, and finding good cause appearing therefor,

17 **IT IS HEREBY ORDERED AS FOLLOWS:**²

18 1. The Motion is granted as set forth in this Order.
19 2. The following dates and deadlines regarding competitive bidding are hereby established
20 (subject to modification if needed):

21 a. **Deadline to Designate Stalking Horse Bidder:** June 16, 2025, shall be the
22 deadline for the Debtors to designate a stalking horse bidder or acquiror
through the chapter 11 plan process or a sale pursuant to 11 U.S.C. § 363
(unless the Committee consents otherwise).

23 b. **Qualified Bid Deadline:** July 25, 2025, at 5:00 p.m. (prevailing Pacific
24 Time), is the deadline by which all binding bids must actually be received

25 _____
26 ¹ Capitalized terms not otherwise defined herein shall have the same meaning ascribed to them in the
Motion.

27 ² The findings and conclusions set forth herein constitute the Bankruptcy Court’s findings of fact and
conclusions of law pursuant to Bankruptcy Rule 7052 made applicable to this proceeding pursuant to
Bankruptcy Rule 9014. To the extent that any finding of fact shall later be determined to be a
28 conclusion of law, it shall be so deemed, and vice versa.

1 pursuant to the Bidding Procedures (the “Qualified Bid Deadline”). Bidders
2 must deliver the necessary bid documents required to participate in the
3 Auction pursuant to the Bidding Procedures to David M. Poitras at
4 dpoitras@bg.law and Susan Seflin at sseflin@bg.law;

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- c. **Auction:** In the event at least one Qualified Bid (other than the Stalking Horse Bidder) is received, July 28, 2025, commencing at 10:00 a.m. (prevailing Pacific time), is the date and time the Auction will commence at the offices of BG Law LLP, 21650 Oxnard Street, Suite 500, Woodland Hills, CA 91367 (or at any such other location or time as the Debtors may hereafter designate in writing to the Qualified Bidders);
- d. **Sale Motion Deadline:** The deadline for the Debtors to file and serve a motion to approve the Sale transaction shall be July 2, 2025.
- e. **Sale Objection Deadline:** The deadline to object to the Sale transaction shall be July 16, 2025 (the “Sale Objection Deadline”); and
- f. **Sale Hearing:** July 30, 2025, at 1:30 p.m. (prevailing Pacific time), is the date and time of the Sale Hearing before this Court.
- g. **Prompt Closing:** August 15, 2025, shall be the deadline for any Sale transaction to close. To implement the sale transactions within the expedited time frame required by the Debtors’ circumstances, the Motion requests that if it is granted, the waiver of any stay arising under Bankruptcy Rules 6004(h) and 6006(d), or any similar rules.

3. The assets to be offered for sale consist of Irwin Nevada as a going concern and including the intellectual property owned by Irwin Nevada through its wholly-owned subsidiary 5310 Holdings, LLC (“5310”). Irwin Nevada’s business and the intellectual property owned by 5310 are herein after referred to as the “Business”.

4. The Debtors have and will continue to provide information regarding the Business and the Debtors to potential purchasers.

5. The following Bidding Procedures shall govern the submission, receipt and analysis of any bids relating to the sale of the Business, and any party desiring to submit a higher or otherwise better offer to purchase the Business shall do so strictly in accordance with the terms of the following Bidding Procedures, and potentially modified by the Debtors, following consultation with the Committee:

a. In order to be a “Qualified Bid,” such bid must: (i) clearly set forth the consideration paid and be accompanied by evidence demonstrating to the Debtors’

1 satisfaction proof of financial ability to close, (ii) identify the executory contracts and
2 unexpired leases to be assumed and assigned, (iii) be “as is where is” and not conditioned on
3 any contingency, (iv) be accompanied by a deposit equal to \$_____ million (approximately
4 15% of the minimum purchase, see below) (the “Good Faith Deposit”), (v) identify the
5 bidder’s organization and include evidence of required authorization, and (vi) be in the
6 amount of \$_____ (comprised of the minimum bid \$_____ plus the
7 minimum overbid of \$_____).

8 b. The Good Faith Deposit of the successful bidder(s) shall, upon consummation
9 of the successful bid, be credited to the purchase price paid for the Business. If any
10 successful bidder fails to consummate the successful bid due to such successful bidder’s
11 default, then the Good Faith Deposit of such successful bidder shall be forfeited to, and
12 retained irrevocably by, the Debtors, and the Debtors will retain the right to pursue all
13 available remedies.

14 c. All Good Faith Deposits are to be held by the Debtors’ counsel in its client
15 trust account and dispersed in accordance with this Order.

16 d. The Good Faith Deposit of any unsuccessful bidder will be returned within
17 three (3) business days after (i) consummation of the Sale; and (ii) the Auction (except for
18 the back-up bidder(s)’s Good Faith Deposit which shall be applied or returned as specified
19 above).

20 e. In the event no Qualified Bid is received by the Debtors’ counsel by the Bid
21 Deadline, then Purchaser shall be deemed to be the successful bidder at the hearing on the
22 Sale Motion.

23 f. Purchaser shall be the “stalking horse” bidder, with a minimum bid deemed to
24 be in the amount of \$_____.

25 g. Notwithstanding anything herein to the contrary, the Debtors, after
26 consultation with the Committee, shall have the right to consider bids that do not conform to
27 one or more of the bid requirements provided that such lack of conformity is not material and
28 is not inconsistent with any order of the Bankruptcy Court.

1 h. In any Auction:

2 i. the initial overbid shall be the Breakup Fee plus \$250,000;

3 ii. the amount of any subsequent overbids shall be not less than in

4 \$250,000 increments;

5 iii. each participating bidder will be required to confirm on the record of

6 the Auction that it has not engaged in any collusion with respect to the

7 bidding or the Sale;

8 iv. the Debtors, in their discretion and in consultation with the Committee,

9 may approve joint bidding that is openly disclosed to the Debtors; and

10 v. the Auction shall be governed by such other procedures as may be

11 announced by the Debtors, in consultation with the Committee, from

12 time to time on the record at the Auction; provided, that any such other

13 Auction Procedures shall not be inconsistent with any order of the

14 Bankruptcy Court.

15 i. In the event the Business is sold to a third party who outbids the Purchaser at

16 Auction for the Business, in a transaction that closes and providing the Purchaser is not in

17 material breach of the asset purchase agreement, then immediately following such closing,

18 and without the need for further order of the Bankruptcy Court, Seller shall pay in

19 immediately available funds from the net proceeds of such closing, by wire transfer to the

20 account specified by Purchaser in writing, a breakup fee equal to 2% of the purchase price

21 plus up to 1% of the purchase price to account for actual third party costs incurred by the

22 Stalking Horse Bidder (the “Breakup Fee”).

23 j. If an Auction is conducted, and Purchaser is not the successful bidder at the

24 Auction but is the next highest bidder at the Auction, Purchaser may, solely at the

25 Purchaser’s discretion and election, serve as a back-up bidder (the “Back-up Bidder”) open

26 until the earlier of (i) 5:00 p.m. (prevailing Pacific time) on August 15, 2025 (the “Outside

27 Back-up Date”) or (ii) the date of the consummation of a sale of the Business to a Third-

28 Party. Following the Sale Hearing and prior to the Outside Back-up Date, if the prevailing

1 bidder in the Auction fails to consummate the acquisition of the Business as a result of a
2 breach or failure to perform on the part of such prevailing bidder, the Back-up Bidder (as the
3 next highest bidder at the Auction), if an election is made to be the Back-up Bidder, will be
4 deemed to have the new prevailing bid, and Seller will be authorized, without further order of
5 the Bankruptcy Court, to consummate the sale of the Business with the Purchaser as Back-up
6 Bidder.

7 6. The Sale Notice, substantially in the form attached as **Exhibit 2** to the Motion, is hereby
8 approved. The Debtors shall file the Sale Notice with the Court, no later than July 9, 2025, and
9 serve the Sale Notice no later than July 9, 2025.

10 7. The Debtors, after consultation with the Committee, reserve the right to implement
11 additional procedural rules, provided that such lack of conformity is not material and is not
12 inconsistent with any order of the Court.

13 8. The Debtors are authorized to execute and deliver all instruments and documents, and
14 take such other action as may be necessary or appropriate to implement and effectuate the
15 transactions contemplated by this Order.

16 9. This Order shall be immediately effective and enforceable upon entry hereof.

17 10. The Court shall retain jurisdiction with respect to any matters, claims, rights or disputes
18 arising from, based upon or related to this Order.

19 **IT IS SO ORDERED.**

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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: **21650 Oxnard Street, Suite 500, Woodland Hills, CA 91367.**

A true and correct copy of the document(s) entitled: **DEBTORS' NOTICE OF AND MOTION FOR ENTRY OF AN ORDER (A) APPROVING PRELIMINARY BIDDING PROCEDURES IN CONNECTION WITH SALE OF THE DEBTORS' ASSETS, (B) SCHEDULING HEARING TO CONSIDER THE SALE, AND (C) APPROVING FORM AND MANNER OF NOTICE THEREOF; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the document(s) were served by the court via NEF and hyperlink to the document. On **March 14, 2025**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- **Kyra E Andrassy** kandrassy@raineslaw.com, bclark@raineslaw.com;jfisher@raineslaw.com
- **Jessica L Bagdanov** jbagdanov@bg.law, ecf@bg.law
- **Ryan W Beall** rbeall@g02.law, kadele@g02.law;dfitzgerald@g02.law;rbeall@ecf.courtdrive.com;cmeeker@g02.law
- **Matthew Bouslog** mbouslog@allenmatkins.com, ncampos@allenmatkins.com
- **Katherine Bunker** kate.bunker@usdoj.gov
- **Erin R. Fay** efay@wsgr.com, lmcgee@wsgr.com
- **Jeffrey I Golden** jgolden@g02.law, kadele@ecf.courtdrive.com;cbmeeker@gmail.com;lbracken@wgllp.com;dfitzgerald@g02.law;golden.jeffreyi.b117954@notify.bestcase.com
- **Alexandria Lattner** alattner@sheppardmullin.com, ehwalters@sheppardmullin.com
- **Matthew A Macdonald** matthew.macdonald@wsgr.com
- **Sina Maghsoudi** sinalegal@gmail.com, g8645@notify.cincompass.com;maghsoudi.sinab128731@notify.bestcase.com
- **David W. Meadows** david@davidwmeadowslaw.com
- **Douglas A Plazak** dplazak@rhlaw.com
- **David M Poitras** dpoitras@bg.law
- **Terrel Ross** tross@trcmilc.com
- **Susan K Seflin** sseflin@bg.law
- **Jonathan Seligmann Shenson** jshenson@greenbergglusker.com, calendar@greenbergglusker.com;cmillerwatkins@greenbergglusker.com
- **Yuriko M Shikai** yshikai@neufeldmarks.com
- **Ashley M Teesdale** ateesdale@bg.law, ecf@bg.law
- **United States Trustee (SV)** ustpregion16.wh.ecf@usdoj.gov
- **Ronghua Sophia Wang** sophia.wang@afslaw.com, yvonne.li@afslaw.com
- **Pamela Kohlman Webster** pwebster@buchalter.com, smartin@buchalter.com
- **Jessica Wellington** jwellington@bg.law, ecf@bg.law

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On **March 14, 2025**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Honorable Victoria S. Kaufman
United States Bankruptcy Court
Central District of California
21041 Burbank Boulevard, Suite 354 / Courtroom 301
Woodland Hills, CA 91367

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____, 2025, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.



Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

March 14, 2025

JESSICA STUDLEY

/s/ Jessica Studley

Date

Printed Name

Signature